

CHAPTER 2

ARTICLE 19 — DVBE PROGRAM FOR SERVICES, COMMODITIES, AND PUBLIC WORKS

Revised March 28, 1999

22100.1 Policy

The California Department of Corrections (CDC) is committed to achieving the legislatively established goal for the participation of disabled veteran-owned businesses in procurement and contracts to the fullest extent possible.

The Disabled Veteran Business Enterprises (DVBE) Program develops policies and procedures to achieve the statewide annual goal of 3 percent in the performance of contracts.

All managers, procurement officers, and contract officers are responsible for implementing CDC's DVBE policies and shall exert maximum efforts to successfully achieve the legislatively established DVBE goal.

22100.2 Purpose

Pursuant to Public Contract Code (PCC) Sections 10115, et seq. and the California Code of Regulations (CCR), Title 15, Sections 3000 and 3475, et seq., CDC policies and procedures have been developed to enable staff to implement and comply with DVBE requirements for services and commodities. These policies and procedures are the means by which CDC shall accomplish its objectives to:

- Achieve or exceed the statutory goal of 3 percent DVBE participation.
- Provide DVBE firms the maximum opportunity possible to provide CDC services and commodities.

For contracts let pursuant to statutes that require minority and women business enterprise participation, staff should notify the Centralized Procurement Section (CPS) for policy and procedure requirements.

22100.3 Glossary of Terms

For definitions of contract terms that are not included in this glossary refer to Department Operations Manual (DOM) Section 22040, Contracts.

CERTIFICATION: Refer to the CCR, Title 15, Section 3000.

DEPARTMENTAL CONTRACT REPRESENTATIVE (DCR): Either the facility's or headquarters' staff person who processes service contracts or commodity purchases, answers questions regarding the transaction, and assists the vendor in complying with the DVBE requirements.

DISABLED VETERAN BUSINESS ENTERPRISE (DVBE): Refer to the CCR, Title 15, Section 3000.

GOAL: Refer to the CCR, Title 15, Section 3000.

GOOD FAITH EFFORT (GFE): Refer to the CCR, Title 15, Section 3000.

DVBE BUSINESS UTILIZATION PLAN: A plan submitted by a bidder to the Department of General Services (DGS) and approved as set forth in PCC Section 10115.15.

22100.4 Certification

Refer to the CCR, Title 15, Section 3000 and 3475, et seq., CDC Form 1457, DVBE Mandatory Participation Requirements for Competitive Bid Contracts, and CDC Form 1458, DVBE Mandatory Participation Requirements for Sole Source Contracts.

22100.4.1 Disabled Veteran Business Enterprises Contact

An organized network between facilities and headquarters shall be developed to facilitate the dissemination and exchange of DVBE information and policies.

Each facility and headquarters procurement office shall designate one staff member to serve as the contact person regarding all DVBE issues.

The DVBE contact shall coordinate with CPS on the following areas:

- Staff/vendor training.
- Dissemination of policies and procedures.
- Technical assistance.
- DVBE outreach activities.

All DVBE printed materials pertaining to contracts, procurement, and/or outreach activities shall be reviewed by CPS before distribution and implementation to ensure that the information complies with current CDC policy and legislative mandates.

22100.4.2 Referral Organizations

Refer to CDC Form 1457, DVBE Mandatory Participation Requirements for Competitive Bid Contracts and CDC Form 1458, DVBE Mandatory Participation Requirements for Sole Source Contracts.

22100.4.3 Focus and Trade/Professional Publications

Refer to CCR, Title 15, Sections 3000 and 3475, et seq.

22100.5 Good Faith Effort Requirements

Refer to CCR, Title 15, Sections 3000 and 3475, et seq., CDC Form 1457, DVBE Mandatory Participation Requirements for Competitive Bid Contracts, and CDC Form 1458, DVBE Mandatory Participation Requirements for Sole Source Contracts.

22100.5.1 Participation In Purchases

In accordance with CCR, Title 15, Section 3475, purchases made under the delegated purchase authority for an amount of \$15,000 or less are exempt from DVBE participation requirements.

22100.5.2 Participation Goal/Good Faith Requirements in Service Contracts

Refer to CCR, Title 15, Section 3000 and 3475, et seq., CDC Form 1457, DVBE Mandatory Participation Requirements for Competitive Bid Contracts, and CDC Form 1458, DVBE Mandatory Participation Requirements for Sole Source Contracts.

22100.6 Disabled Veterans Business Enterprises Forms

This section describes the forms needed to document and monitor DVBE compliance. Instructions on completing the forms provide users with an understanding of the purposes of the individual forms, as well as how each form corresponds with the others to produce a comprehensive system of compliance tracking.

The data on DVBE compliance forms is used to prepare the annual Report to the Governor and the Legislature. The forms shall be submitted by CDC contract/procurement offices to the appropriate headquarters' office in a complete and timely fashion.

All original DVBE documents shall be maintained with the contract to provide an audit trail.

22100.6.1 CDC Form 1457, DVBE Mandatory Participation Requirements - Competitive Bid Contracts

The CDC Form 1457, DVBE Mandatory Participation Requirements - Competitive Bid Contracts, shall be used for all CDC competitive bid contracts which contain DVBE requirements. This package shall be included with all Invitations for Bid, Requests for Proposal, and Requests for Quotations when released to interested bidders.

The CDC Form 1457 provides a brief overview of the DVBE program and legislative mandates. Refer to CDC Form 1457 for specific instructions.

22100.6.2 CDC Form 1458, DVBE Mandatory Participation Requirements - Sole Source Contracts

The CDC Form 1458, DVBE Mandatory Participation Requirements - Sole Source Contracts, shall be used for all contracts exempted from the competitive bid process and from advertising in the California State Contracts Register (sole source contracts).

Sole source contracts are not exempt from DVBE compliance unless they are exempt pursuant to CCR, Title 15, Section 3475, et seq. Refer to CDC Form 1458 for specific instructions.

22100.6.3 CDC Form 1786, DVBE Participation in Exempt Contracts

The CDC Form 1786, DVBE Participation in Exempt Contracts, documents DVBE participation in competitive bid and sole source contracts which are exempt from DVBE requirements.

Although the contract is exempt from DVBE requirements, any documented participation that may exist in the bid proposal/proposed contract shall be reported.

The DVBE participation information gathered from the CDC Form 1786 shall be recorded on the CDC Form 1428.

Whenever a potential bidder/contractor obtains a competitive bid or sole source package for a DVBE-exempt contract, a CDC Form 1786 shall also be supplied to the potential bidder/contractor who shall be encouraged to complete and return the form if the contract contains documented DVBE participation.

22100.6.4 CDC Form 1428, Annual Monitoring Report Of DVBE Participation In Contracting

The CDC Form 1428 shall be used to record DVBE expenditure and participation data for inclusion in the annual Report to the Governor and the Legislature. Refer to CDC Form 1428 for specific instructions.

22100.6.5 CDC Form 1818, Request to Exempt Contract From DVBE Requirements

The CDC Form 1818, Request to Exempt Contract from DVBE Requirements, shall be used to request DVBE exemptions for service and public works contracts. Refer to CCR, Title 15, Section 3475 et seq. to determine exemption criteria. Refer to CDC Form 1818 for specific instructions.

22100.7 Disabled Veterans Business Enterprises Standard Contract Language

Unless specifically exempt, the following standard DVBE contract language shall be included in all contracts:

Over \$15,000

"Disabled Veterans Business Enterprises (DVBE) Conditions

- To the best of the Contractor's ability, the Contractor shall fulfill his/her obligations in dispensing that portion of the contract amount to the DVBEs as identified in the reply to the DVBE Mandatory Participation Requirements. Said reply by reference is a part of this contract and is on file and available for review Monday through Friday between the hours of 9:00 a.m. and 4:00 p.m. at the contracting location.
- Contractor agrees that the State or its delegate will have the right to review, obtain, and copy all records pertaining to performance of the contract. Contractor agrees to provide the State or its delegate with any relevant information requested and shall permit the State or its delegate access to its premises, upon reasonable notice, during normal business hours to interview employees, inspect and copy such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with PCC Section 10115 et seq. and CCR, Title 2, Section 1896.60 et seq. Contractor further agrees to maintain such records for a period of three (3) years after final payment under the contract."

\$15,000 or Less

"Contractor agrees that, in the event the contract is amended to exceed \$15,000, Contractor shall comply with CDC's DVBE participation goals as set forth in PCC Section 10115(c)."

22100.7.1 Departmental Contract Representative Responsibilities

The DCR is the primary facility's or headquarters' staff member responsible for the coordination and processing of a specific contract.

The DCR shall provide information and/or assistance to all potential bidders/contractors regarding participation requirements. In this capacity, the DCR shall:

- Answer questions regarding DVBE certification and GFE requirements.
- Provide potential contractors with a DVBE Resource Packet for identifying State and local DVBE referral organizations, and focus and trade/professional publications.
- Clarify any other contract-related issues.

If the DCR cannot adequately respond to bidders'/contractors' questions, the DCR shall contact their designated contract analyst in headquarters.

If the contract analyst is unable to assist with a specific issue, the contract analyst shall contact CPS.

The DCR shall accurately document all contacts from potential contractors including the specific types of information and/or assistance provided.

22100.8 Procurement Services

All procurements made under the delegated purchase authority are exempt from DVBE requirements.

Generally, all purchases which exceed the delegated purchase authority limit are processed by DGS, which has the responsibility for DVBE compliance and reporting, unless otherwise directed by DGS.

22100.9 Revisions

The Deputy Director, Administrative Services Division, or designee, shall ensure that the contents of this section are accurate and current.

22100.10 References

PCC §§ 2050, et seq., 10115, et seq., 10340(b)(1), and 10356(c).

W&IC § 1753.3.

CCR (2) § 1896. CCR (15) §§ 3000, 3475, 3476, and 3477.

SAM §§ 1200, et seq., 3500, et seq., and 3612, et seq.

ARTICLE 11 — SMOKING – NONSMOKING

Revised December 9, 1994

31110.1 Policy

To provide a healthful, comfortable, and productive work environment for employees, the Governor of the State of California has prohibited cigarette, cigar, and pipe smoking in all State-owned, Leased, or occupied buildings. Smoking is also prohibited in all State passenger vehicles and any other mobile-enclosed equipment. Tobacco product advertising is not allowed inside any State-owned or occupied building unless it is contained in a program, leaflet, newspaper, magazine, or other written material lawfully sold, brought, or distributed within a State building. Posting of any tobacco product or smoking advertisement is prohibited (posters, signs, written, or visual material). Smoking is not allowed within 15 feet of a main entrance or exit to a building.

31110.2 Purpose

This section designates the Department's responsibilities in providing a smoke-free environment for all employees.

31110.3 Responsibility

All employees shall:

- Adhere to and enforce this policy.
- Attempt to resolve disagreements informally.
- Bring to the attention of the appropriate supervisor any conflicts which cannot be resolved informally.

All supervisors shall:

- Ensure that no smoking occurs in a State-owned, leased, or occupied building.
- Ensure that no smoking is allowed within 15 feet of a main entrance or exit of a building.
- Ensure that no smoking occurs in any State-owned passenger vehicle. Smoking is also prohibited in all other State-owned mobile equipment including light and heavy trucks, cargo and passenger vans, buses, and any other mobile equipment with an enclosed drive/passenger compartment.

Hiring authorities shall establish local smoking policies which are consistent with the provisions of this section and the Governor's Executive Order W-42-93, and Government Code (GC) Sections 19994.30 through 19994.35.

31110.4 Definition

Smoke or smoking means inhaling, exhaling, burning, or carrying any lighted cigarette, cigar, pipe, or smoking paraphernalia used for consuming the smoke of tobacco or any other burning product.

31110.5 Smoke Breaks

Time taken away from an employee's work station shall not exceed the total time an employee is otherwise authorized to take for rest periods. Smoke breaks are in lieu of regular breaks or rest periods and shall be permitted at the discretion of the supervisor.

31110.6 Smoking Areas

Smoking areas shall be in prison yards or other outdoor areas designated for smoking by each facility head, including those designated for the purpose of religious ceremonies as specified.

State-owned housing serving as the primary residence for State employees.

31110.7 Nonsmoking Areas

Signs shall be posted in those prison yard areas within the security perimeters not designated for smoking, along with a citation of the authority requiring such prohibition.

No person shall smoke in any building, areas of any building, or group of buildings owned, leased, or utilized by the Department. This shall include, but is not limited to, facilities, community correctional

centers, work furlough centers, restitution centers, and family visiting units.

31110.8 Assistance for Smokers

The Department urges smokers to contact the local chapter of the American Lung Association for more information about smoking cessation programs. These programs provide for a supportive environment in which employees can quit smoking through education.

The Department's Office of Environmental Health, and Safety Management shall periodically distribute helpful literature for those interested in such programs. Additional information can be obtained from the local and/or departmental Employee Assistance Program Coordinator, headquarters.

31110.8.1 Training

The Department may offer tobacco smoking control programs using existing employee training funds for presentation during normal working hours.

Upon initial employment, all hiring authorities shall inform employees about the smoking prohibition, the areas where smoking is permitted, and the availability of smoking control programs.

Enrollment in a smoking cessation/control program is voluntary.

31110.9 Violations

Resolution of any disagreement on behalf of an employee may be pursued through the Department's complaint process. Refer to the applicable bargaining unit contract or excluded employee complaint form for the process to file a complaint.

Disputes relating to this policy are subject to the provisions of Department of Personnel Administration (DPA) Rule 599.859 for nonrepresented employees and the various bargaining unit contracts for represented employees.

31110.10 Revisions

The Deputy Director, Administrative Services Division, or designee shall be responsible for ensuring that the contents of this section are kept current and accurate.

31110.11 References

GC §§ 1994.30 through 1994.35.

Governor's Executive Order W-42-93.

CCR (15)(3), §3436.

Management Memorandum 93-30.

DPA Rule 599.859.

Memoranda of Understanding